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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/003,837	12/03/2001	Tim L. Peck	005092.00028	6293
22910	7590	04/20/2004	EXAMINER FETZNER, TIFFANY A	
BANNER & WITCOFF, LTD. 28 STATE STREET 28th FLOOR BOSTON, MA 02109-9601			ART UNIT 2859	PAPER NUMBER

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

10/003,837

Applicant(s)

PECK ET AL.

Examiner

Tiffany A Feltzner

Art Unit

2859

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 March 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 26 March 2004. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☒ Applicant's reply has overcome the following rejection(s): See Continuation Sheet.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: 38 and 39.

Claim(s) objected to: _____

Claim(s) rejected: 1-37 and 40-59.

Claim(s) withdrawn from consideration: _____

8. ☒ The drawing correction filed on 02 June 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: See Continuation Sheet


Diego Gutierrez

Supervisory Patent Examiner
Technology Center 2800

Continuation of 2. NOTE: Applicant argues that the scope was not changed by the previous amendment, therefore the finality of the last action is improper. The examiner notes that applicant's amendments were more than just grammatical editing, "detecting one or more analytes in the sample holding void with which the microcoil is associated" is a complete scope change, from the originally presented claims because the original claims do not recite the presence of one or more analytes being detected by respective microcoils. An updated search of the claims due to the change in scope was proper, and thus so is the finality of the rejection. Additionally there is nothing in the amended claims that requires the fluid router controlled by electrical impulses to "prevent or inhibit" fluid routed through the system, from reaching one or more of the detection sites. The claim only requires that the routed fluid reach the detection sites. If fails to require selecting or choosing a specific detection site from a plurality of detection sites. Therefore, applicant's arguments presented in the after-final are not persuasive, and future amendments would require a further updated prior art search..

Continuation of 3. Applicant's reply has overcome the following rejection(s): The objections to the specification, which are formal matters, not issues regarding the claims themselves..

Continuation of 5. does NOT place the application in condition for allowance because: applicant's after-final amendment fails to amend the claims, and the claims do not recite the selectable routing argued by applicant..

Continuation of 10. Other: The objections to the specification regarding "for example" "or the like" or "such as" are withdrawn, and the amendments to the specification to remove the improper incorporation by reference are effective to overcome the incorporation by reference objections.